

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

VIRGIN RECORDS AMERICA, INC.,  
a California corporation; CAPITOL  
RECORDS, INC., a Delaware  
corporation; SONY BMG MUSIC  
ENTERTAINMENT, a Delaware  
general partnership; ARISTA  
RECORDS LLC, a Delaware limited  
liability company; INTERSCOPE  
RECORDS, a California general  
partnership; WARNER BROS.  
RECORDS INC., a Delaware  
corporation; and UMG RECORDINGS,  
INC., a Delaware corporation,

Civ. No.: 06-cv-1497 MJD/RLE

**MEMORANDUM IN SUPPORT OF  
PLAINTIFFS' MOTION TO AMEND  
PRETRIAL SCHEDULING ORDER**

Plaintiffs,

vs.

JAMMIE THOMAS,

Defendant.

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Plaintiffs Virgin Records America, Inc., *et al.* (collectively, "Plaintiffs") submit this memorandum seeking to amend the Pretrial Schedule entered on March 6, 2007 for the purpose of taking the deposition of Justin Gervais. Counsel for Defendant declined to stipulate to Plaintiff's Motion on May 1, 2007 via telephone conference. Plaintiffs respectfully request that the Court extend the pretrial schedule as indicated below. The Court previously extended the deadlines in this matter on March 6, 2007. (Doc. No. 17.) Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure and Local Rule 16.3, there is good cause for this motion, and a statement pursuant to Local Rule 16.3(b)(1)-(4) is made as follows:

1. Responding to Local Rule 16.3(b)(1), Plaintiffs need to take a deposition of Justin Gervais, whom Plaintiffs believe may have information relevant to the facts of this

lawsuit.

2. Responding to Local Rule 16.3(b)(2), Plaintiffs have been diligently pursuing discovery in this action. The parties have completed written discovery, and Plaintiffs have taken or are in the process of completing depositions of Defendant, Defendant's proposed expert, and another witness.

3. Responding to Local Rule 16.3(b)(3), it will be impossible for Plaintiffs to complete a deposition of Justin Gervais prior to the May 1, 2007 discovery deadline. Plaintiffs have been diligently attempting to contact Mr. Gervais. Plaintiffs have had a working telephone number for Mr. Gervais since late March 2007, but lack a physical address at which to serve a subpoena to appear for deposition. Mr. Gervais, who is the father of one of Defendant's children, has not responded to Plaintiffs' phone calls and Plaintiffs have not yet been able to obtain his address despite significant effort, including searches of several public databases.

4. Responding to Local Rule 16.3(b)(4), Plaintiffs' proposed amended schedule provides for an additional thirty days for the limited purpose of deposing Justin Gervais. The requested extension will not interfere with any other deadlines.<sup>1</sup> Therefore, Plaintiffs respectfully request that the date in the Court's Order be amended as follows:

	<b>Current deadline</b>	<b>Amended deadline</b>
Close of Discovery Period for the Purpose of Conducting Deposition of Justin Gervais	May 1, 2007	June 1, 2007

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<sup>1</sup> The parties have separately agreed to allow Plaintiffs to take a preservation deposition of Defendant's Internet Service Provider, Charter Communications. This preservation deposition will not interfere with any other Court deadlines.

A proposed order reflecting the foregoing changes is attached.

For all the foregoing reasons, Plaintiffs respectfully request that the Court amend the Order as proposed above and in the accompanying proposed Order.

Date: May 1, 2007

Respectfully submitted,

/s/ Laura G. Coates

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